

AMENDED IN ASSEMBLY JUNE 24, 1997

AMENDED IN SENATE MARCH 31, 1997

SENATE BILL

No. 359

Introduced by Senator Rainey

February 13, 1997

An act to amend Section 25503.15 of the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

SB 359, as amended, Rainey. Alcoholic beverages: tied-house restrictions.

Existing provisions of the Alcoholic Beverage Control Act, known as "tied-house" restrictions, generally prohibit a winegrower from having an ownership interest in an on-sale alcoholic beverage license, with limited exceptions. Existing law includes an exception that permits a winegrower who manufactures, produces, bottles, processes, imports, or sells wine only to hold an ownership interest in any on-sale license, provided that the winegrower has entered into an undertaking approved by the Department of Alcoholic Beverage Control not to sell or furnish his or her wine to the holder of the license for as long as the winegrower's ownership interest in the license continues, or to enter into any collusive scheme to unfairly sell or promote the wine of another winegrower in his or her on-sale businesses in return for the same treatment in the on-sale businesses of the other winegrower.

This bill would revise that exception to *also* include a winegrower who has a wholesale license ~~to sell wine only~~.

Existing law also exempts from the tied-house restrictions any licensed winegrower who meets specified requirements, including that the on-sale licensed premises are licensed as a bona fide public eating place or bed and breakfast, and that all alcoholic beverages sold and served on the premises are purchased only from California wholesale licensees, unless an applicable exception applies.

This bill would revise that exception from tied-house restrictions to include any winegrower who has a wholesale license, if the above requirements are also met.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25503.15 of the Business and
2 Professions Code is amended to read:

3 25503.15. (a) Notwithstanding any other provision of
4 this division, a winegrower who manufactures, produces,
5 bottles, processes, imports, ~~sells, or has a wholesale license~~
6 ~~to sell wine only~~ *or sells wine only, or has a wholesale*
7 *license*, or any officer, director, or agent of that person,
8 may hold the ownership of any interest in any on-sale
9 license, or the business conducted under that license,
10 provided that the person or the officer, director, or agent
11 of that person, shall have entered into an undertaking
12 approved by the department stating both of the
13 following:

14 (1) That neither that person nor any officer, director,
15 or agent of that person shall sell or furnish to the holder
16 of the license any wine, or permit the sale pursuant to that
17 license of any wine, manufactured, produced,
18 wholesaled, bottled, processed, imported, or sold by that
19 person or that person's principal for as long as that
20 ownership continues.

21 (2) That neither that person nor any officer, director,
22 or agent of that person shall enter into any collusive
23 scheme whereby he or she unfairly sells or promotes, in

1 his or her on-sale businesses, the wine of another
2 winegrower who manufactures, produces, bottles,
3 processes, imports, ~~sells, or has a wholesale license to sell~~
4 ~~wine only or sells wine only, or has a wholesale license,~~ in
5 return for his or her wine being unfairly sold or promoted
6 in the on-sale businesses of that winegrower.

7 (b) Notwithstanding any other provision of this
8 division, any licensed winegrower or *any winegrower*
9 *who has a wholesale license, or* any officer, director, or
10 agent of that person, may hold, directly or indirectly, the
11 ownership of any interest in an on-sale license, provided
12 that each of the following conditions is met:

13 (1) The on-sale licensed premises are licensed as a
14 bona fide public eating place as defined in Section 23038,
15 or as a bona fide bed and breakfast inn as defined in
16 Section 24045.11.

17 (2) The on-sale licensed premises purchases all
18 alcoholic beverages sold and served at the on-sale
19 licensed premises only from California wholesale
20 licensees, unless one of the following conditions is met:

21 (A) The wine purchased is produced or bottled by, or
22 produced and packaged for, the same licensed
23 winegrower that holds an interest in the on-sale license.

24 (B) The wine is produced or bottled by, and is
25 purchased from, a licensed winegrower who sells no more
26 than 125,000 gallons of wine per year for distribution in
27 this state under all brands or trade names owned by that
28 winegrower.

29 (C) The wine is purchased by an on-sale licensee in
30 whose on-sale license a licensed winegrower holds an
31 interest, provided that the winegrower sells no more than
32 125,000 gallons of wine per year for distribution in this
33 state under all brands or trade names owned by that
34 winegrower.

35 (3) The licensed winegrower and any officer, director,
36 or agent of that person, whether individually or in the
37 aggregate, do not sell and serve the wine products
38 produced or bottled under any brand or trade name
39 owned by that winegrower through more than two

1 on-sale licensed premises in which any of them holds an
2 ownership interest.

3 (4) The number of wine items by brand offered for
4 sale by the on-sale licensed premises that are produced,
5 bottled, processed, imported, or sold by the licensed
6 winegrower or by any person holding any interest in the
7 winegrower does not exceed 15 percent of the total wine
8 items by brand listed and offered for sale in the licensed
9 bona fide public eating place selling and serving that
10 wine. This paragraph does not apply to a bona fide bed
11 and breakfast inn.

12 (c) The Legislature finds that it is necessary and
13 proper to require a separation between manufacturing
14 interests, wholesale interests, and retail interests in the
15 production and distribution of alcoholic beverages in
16 order to prevent suppliers from dominating local markets
17 through vertical integration and to prevent excessive
18 sales of alcoholic beverages produced by overly
19 aggressive marketing techniques. The Legislature
20 further finds that the exceptions established by this
21 section to the general prohibition against tied interests
22 must be limited to their express terms so as not to
23 undermine the general prohibition, and intends that this
24 section be construed accordingly.

